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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 8-10426-ADB

* * * * *

KEVIN CLAPP,
Plaintiff

VS.

CHARLES BAKER, MARK COHEN, JOHN
FANNING, VINCENT NOE, BRUCE
TOBIN, BRIAN TULLY, SCOTT KEARNS,
and BRIAN BROOKS,
Defendants

* * * * *

CONTINUED Deposition of KEVIN CLAPP, a witness
called by counsel for the Defendant, Bruce Tobin,
pursuant to the applicable rules, before Lorreen
Hollingsworth, CSR/RPR, CSR NO. 114793, and Notary
Public in and for the Commonwealth of Massachusetts,
Rogal & Donnellan, P.C., 100 River Ridge Drive,
Norwood, on Wednesday, September 15, 2021, at
2:21 p.m.

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DAY II

S T I P U L A T I O N S

It is hereby stipulated and agreed by and between counsel for the respective parties that the deposition will be read and signed by the witness, under the pains and penalties of perjury, and that the sealing, filing, and notarization of the deposition are waived.

It is further stipulated and agreed that all objections, except as to form, and motions to strike are reserved until the time of trial.

KEVIN CLAPP,
a witness called on behalf of the Defendant, Bruce Tobin, having first been duly sworn, deposes and says as follows:

MS. CLEMENTS: Mr. Clapp, my name is Alana Black Clements. I represent Brian Tully and Brian Brooks.

MR. JOHNSON: Robert Johnson for Kevin Clapp. The deposition was scheduled initially for 1:00; however, one of the defense attorneys needed more time,

1 so we pushed it to 2 p.m.

2 There was a mixup today about
3 whether there was an outstanding trespass
4 order against Mr. Clapp. And so we had to
5 resolve that.

6 And then I came in and
7 Mr. Clapp came in. He was initially going
8 to do the depo, you know, through Zoom.
9 So, as a result of that mixup, we're
10 starting the deposition at 3:00. Counsel
11 for the Defendants have assured me that
12 there is no outstanding trespass order.

13 THE WITNESS: No, they sent
14 it. They resent it. I have it.

15 MR. OFFICER: Is it rescinded
16 or waived for purposes of today? I just
17 don't want Mr. Clapp to leave here under
18 the wrong impression.

19 THE WITNESS: "This will
20 confirm that" -- believe me, I can read.

21 "This will confirm that the no
22 trespass order for this office for
23 Mr. Clapp is not in effect and will not be
24 enforced for the duration of today's

1 left the scene, is that right?

2 A No. They -- they -- there was a lot of
3 troopers outside the door.

4 Q Okay.

5 A They didn't leave that hospital for a long
6 time.

7 Q So then you're seen by an emergency
8 physician, I assume, is that correct?

9 A Yeah. Seen by a nurse. She drew blood.

10 Q Okay. When you were -- were you examined
11 by the nurse?

12 A Yeah.

13 Q When you were examined by the nurse, were
14 you wearing your street clothes, or had you
15 turned into hospital -- a hospital gown, or
16 something like that?

17 A I can't remember.

18 Q Do you recall changing into a hospital gown
19 during that emergency room visit?

20 A I can't remember.

21 Q Were you examined by a physician?

22 A I was examined by nurses, physician, yeah.

23 Q So -- do you believe you were examined by
24 both a nurse and then a physician?

1 A Right. And I -- as far as I know. I mean,
2 a lot of people came in and asked me
3 questions. They really didn't say who they
4 were.

5 Q Okay.

6 A I remember the nurse drawing my blood very
7 well, though.

8 Q And did you tell the physician or the nurse
9 that your arm had been pricked by someone
10 while you were in the ambulance?

11 A Oh, the nurse knew. She saw it. She was
12 very good.

13 Q The nurse saw that?

14 A Yeah. The nurse that was drawing my
15 blood -- I don't know if she was a
16 phlebotomist or a nurse, but when she came
17 in with the rubber band, she said, I'm
18 going to tell you something, Mr. Clapp;
19 those troopers are no good outside; they're
20 out there to kill you.

21 She said, I've had nothing but
22 problems with them. She said, They're out
23 to get you.

24 I said, I know that.

1 Q When she said that, she said they were out
2 to get you --

3 A Right.

4 Q -- Mr. Clapp?

5 A That's right. Because she overheard them.
6 And she's had problems with them before,
7 she said.

8 Q Do you know the name of that nurse?

9 A No. But I'd love to find out. She'd make
10 a great witness.

11 Q I think she would.

12 So the nurse knew or a medical
13 person --

14 A Right.

15 Q -- you said, saw that there had been
16 pricking in your arm?

17 A Right.

18 Q Because it was obvious?

19 A Right.

20 Q Did the physician say anything to you about
21 pricking in your arm?

22 A No, because the nurse was in fear, because
23 the last time she said anything, the State
24 Police had tried to stop her for drunk

1 driving. They retaliate against people
2 that many stick up for the patients.

3 That's what she told me.

4 Q All right. But a doctor came in, and he
5 examined your arms, right?

6 A Mm-hmm.

7 Q Examined your shoulders?

8 A Yup.

9 Q Correct?

10 And he said nothing to you
11 about all these obvious pinpricks in your
12 arms, correct? Is that what you're telling
13 us?

14 A No. He didn't spend very much time.

15 Q But it was obvious?

16 A Well, I wasn't impressed with him.

17 Q But, I mean, the pinpricks were obvious in
18 your arm?

19 A Well, I don't know how obvious they were.
20 To the phlebotomist or the nurse, they were
21 obvious.

22 You know, it's -- there's
23 little pricks in the arm -- I mean, if I
24 look at my arm now, you can say there's

1 little pricks in there.

2 I mean, I'm not -- I'm not a
3 nurse.

4 Q Did you -- I'm sorry -- I didn't mean to
5 cut you off.

6 A I'm not a nurse. I don't know.

7 Q Did you explain to the doctor that you'd
8 been pricked in the arm?

9 A Well, he wrote a report.

10 He couldn't even spell right.

11 Q That's not my question, sir.

12 Did you --

13 A Oh, yeah --

14 Q My question -- please, specifically -- did
15 you complain to him --

16 A Yeah.

17 Q -- that it had happened?

18 A Yeah.

19 MR. OFFICER: Could we mark
20 this as an exhibit.

21 A Here's my arm here (indicating).

22 MR. JOHNSON: There's no
23 question.

24 (Exhibit No. 33, The ambulance

1 they know that that puts me in a suicide
2 mode, which I feel like I'm going in right
3 now, which I have to take now -- I have to
4 take a couple pills, because I feel chest
5 pains.

6 MR. JOHNSON: Do you want to
7 take a break?

8 THE WITNESS: No, no. I'm
9 okay. I want to get it out here on the
10 table.

11 MR. AKERSON: We're going to
12 take a break.

13 THE WITNESS: Listen. I don't
14 care whether you're --

15 MR. JOHNSON: Let's take the
16 break, so you can take your --

17 THE WITNESS: Oh, no, I don't
18 need any break.

19 MR. JOHNSON: -- take your
20 pills.

21 THE WITNESS: No, no, no. I
22 don't need a break. I don't need a break.
23 I'm fine.

24 I just want to get this out in

1 the open, that they pick on anybody in my
2 family.

3 MR. JOHNSON: Mr. Clapp?

4 THE WITNESS: How can a dead
5 man testify?

6 My father was dead, and he's
7 supposed to testify?

8 I've got my mother -- let's
9 bring it all out. Come on. Let's do it.

10 Q So Donna O'Neil --

11 THE WITNESS: No. Wait a
12 minute.

13 Here's my mother; here's some
14 of her ashes (placing jar on table). This
15 is Phyllis Clapp right here -- okay -- who
16 was killed.

17 Now, is she going to testify?

18 So let's bring it out,
19 Counselor. Do you have a mother? How do
20 you treat your mother? Would you treat
21 your mother -- would you want your mother
22 in a jar like that (indicating)?

23 MR. JOHNSON: Mr. Clapp, let's
24 take a break.

1 THE WITNESS: We don't need a
2 break.

3 MR. JOHNSON: All right.
4 Let's go.

5 THE WITNESS: What they need
6 is a slap in their ass.

7 MR. JOHNSON: No, no.

8 THE WITNESS: You're
9 professional, and they're not. And that's
10 what's wrong.

11 You think you're dealing with
12 professional lawyers, and you're not.
13 You're dealing with has-beens that are
14 protecting bums.

15 And they know I'm good,
16 because I don't lie.

17 MR. JOHNSON: We need to
18 proceed.

19 THE WITNESS: And I'll put a
20 picture of my mother up. There she is
21 (indicating).

22 MR. JOHNSON: Mr. Clapp, I
23 think we're not -- we need to slow down;
24 take a break.

1 THE WITNESS: I don't need any
2 break. I'm fine.

3 MR. JOHNSON: All right.
4 Well, let's go.

5 THE WITNESS: But I am sick
6 and tired of them bringing up my family
7 who's alive or dead, and they love to do
8 this bullshit.

9 MR. JOHNSON: All right.
10 Okay.

11 THE WITNESS: And the judge is
12 sick of it and has addressed them on it.

13 MR. JOHNSON: All right.
14 So -- all right. You've made that point.

15 THE WITNESS: And they're
16 playing with the wrong judge.

17 MR. JOHNSON: Can we go
18 forward?

19 THE WITNESS: That's why she
20 never threw it out, but they're not that
21 smart to know that.

22 That's why they're going to do
23 a motion for summary judgement.

24 MR. JOHNSON: Mr. Clapp --